



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL

1 June 2011

STATUS: Immediate

KLUB LEKKERRUS/LIBERTAS v TROYE VILLA CASE NO 260/10

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

1. The Supreme Court of Appeal has upheld an appeal in the above matter which concerns sale of shares agreements.
2. The respondents had instituted action as plaintiffs in the North Gauteng High Court, Pretoria where their claims were upheld by Makgoba J, who also dismissed the appellant's (who was the first defendant in that court) counterclaims.
3. The late Mr P J H van Tonder owned properties in the Mokopane (formerly Potgietersrus) area on which he operated two holiday resorts, Klubs Lekkerus and Libertas. Through agreements of sale of shares and loan accounts the two clubs, which later amalgamated to form the appellant, purchased the properties. Lease and management agreements were also concluded.
4. After a dispute arose between Mr van Tonder's widow, Mrs J J van Tonder (the 6th respondent) and Mr H D Woite (an auditor and the 7th respondent) on the one hand and the appellant club's members on the other, the Club was served with a notice of eviction in respect of the properties, resulting in this litigation.

5. The SCA granted an application by the respondents to join Mr Woite in his capacity as executor of the estate of the late Mr van Tonder, on appeal. The SCA held that the parties have tacitly concluded new agreements on the same terms as the original sale of shares agreements and that the lease and management agreements had continued. The SCA concluded that the Club was the lawful owner of the shares in the second and third respondent companies and that the companies' share registers should be rectified accordingly. The SCA upheld the appeal and substituted the North Gauteng High Court's orders accordingly.

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